

Assembly Bill No. 1873

CHAPTER 500

An act to amend Sections 42023.1, 42023.2, 42023.3, 42023.4, 42023.5, and 42023.6 of the Public Resources Code, relating to solid waste, and making an appropriation therefor.

[Approved by Governor September 14, 2004. Filed
with Secretary of State September 14, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1873, Hancock. Solid waste: recycling market development.

The existing California Integrated Waste Management Act of 1989, which is administered by the California Integrated Waste Management Board, establishes an integrated waste management program. The act creates the Recycling Market Development Revolving Loan Subaccount in the Integrated Waste Management Account and continuously appropriates the funds deposited in the subaccount to the board for the purpose of providing loans for purposes of the Recycling Market Development Revolving Loan Program. Existing law makes the provisions regarding the loan program, the creation of the subaccount, and expenditures therefrom, inoperative on July 1, 2006, and repeals those provisions as of January 1, 2007.

This bill would extend the operation and repeal of the Recycling Market Development Revolving Loan Program, including the extension of the operation and repeal of the continuously appropriated subaccount, until July 1, 2011 and January 1, 2012, respectively, thereby continuing the effect of the program until those dates and thereby making an appropriation.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 42023.1 of the Public Resources Code is amended to read:

42023.1. (a) The Recycling Market Development Revolving Loan Subaccount is hereby created in the account for the purpose of providing loans for purposes of the Recycling Market Development Revolving Loan Program established pursuant to this article.

(b) Notwithstanding Section 13340 of the Government Code, the funds deposited in the subaccount are hereby continuously appropriated

to the board without regard to fiscal year for making loans pursuant to this article.

(c) The board may expend interest earnings on funds in the subaccount for administrative expenses incurred in carrying out the Recycling Market Development Revolving Loan Program, upon the appropriation of funds in the subaccount for that purpose in the annual Budget Act.

(d) The money from any loan repayments and fees, including, but not limited to, principal and interest repayments, fees and points, recovery of collection costs, income earned on any asset recovered pursuant to a loan default, and funds collected through foreclosure actions, shall be deposited in the subaccount.

(e) All interest accruing on interest payments from loan applicants shall be deposited in the subaccount.

(f) The board may expend the money in the subaccount to make loans to local governing bodies, private businesses, and nonprofit entities within recycling market development zones, or in areas outside zones where partnerships exist with other public entities to assist local jurisdictions to comply with Section 40051.

(g) The board shall establish and collect fees for applications for loans authorized by this section. The application fee shall be set at a level that is sufficient to fund the board's cost of processing applications for loans. In addition, the board shall establish a schedule of fees, or points, for loans which are entered into by the board, to fund the board's administration of the revolving loan program.

(h) The board may expend money in the subaccount for the administration of the Recycling Market Development Revolving Loan Program, upon the appropriation of funds in the subaccount for that purpose in the annual Budget Act. In addition, the board may expend money in the account to administer the revolving loan program, upon the appropriation of funds in the subaccount for that purpose in the annual Budget Act. However, funding for the administration of the revolving loan program from the account shall be provided only if there are not sufficient funds in the subaccount to fully fund the administration of the program.

(i) The board, pursuant to subdivision (a) of Section 47901, may set aside funds for the purposes of paying costs necessary to protect the state's position as a lender-creditor. These costs shall be broadly construed to include, but not be limited to, foreclosure expenses, auction fees, title searches, appraisals, real estate brokerage fees, attorney fees, mortgage payments, insurance payments, utility costs, repair costs, removal and storage costs for repossessed equipment and inventory, and



additional expenditures to purchase a senior lien in foreclosure or bankruptcy proceedings.

(j) (1) Except as provided in paragraph (2), this section shall become inoperative on July 1, 2011, and as of January 1, 2012, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

(2) The repeal of this section pursuant to paragraph (1) shall not extinguish any loan obligation or the authority of the state to pursue appropriate actions for the collection of a loan.

SEC. 2. Section 42023.2 of the Public Resources Code is amended to read:

42023.2. (a) Upon authorization by the Legislature in the annual Budget Act, the Controller shall transfer a sum not to exceed five million dollars (\$5,000,000) from the account to the subaccount as necessary to meet anticipated loan demand under the program. Those amounts shall be a loan to the subaccount, repayable with interest to the account at the rate of return for money in the Surplus Money Investment Fund.

(b) (1) Except as provided in paragraph (2), this section shall become inoperative on July 1, 2011, and as of January 1, 2012, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

(2) The repeal of this section pursuant to paragraph (1) shall not extinguish any loan obligation or the authority of the state to pursue appropriate actions for the collection of a loan.

SEC. 3. Section 42023.3 of the Public Resources Code is amended to read:

42023.3. (a) All money remaining in the subaccount on July 1, 2011, and all money received as repayment and interest on loans shall, as of July 1, 2011, be transferred to the account and any money due and outstanding on loans as of July 1, 2011, shall be repaid to the board and deposited by the board in the account until paid in full, except that, upon authorization by the Legislature in the annual Budget Act, interest earnings may be expended for administrative costs associated with the collection of outstanding loan accounts.

(b) (1) Except as provided in paragraph (2), this section shall become inoperative on July 1, 2011, and as of January 1, 2012, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.



(2) The repeal of this section pursuant to paragraph (1) shall not extinguish any loan obligation or the authority of the state to pursue appropriate actions for the collection of a loan.

SEC. 4. Section 42023.4 of the Public Resources Code is amended to read:

42023.4. (a) Loans made pursuant to Section 42023.1 shall be subject to all of the following requirements:

(1) The terms of any approved loan shall be specified in a loan agreement between the borrower and the board. The loan agreement shall include a requirement that the failure to comply with the agreement shall result in any remaining unpaid amount of the loan, with accrued interest, being immediately due and payable. Notwithstanding any term of the agreement, any recipient of a loan that the board approves shall repay the principal amount, plus interest on the basis of the rate of return for money in the Surplus Money Investment Fund at the time of the loan commitment. Except as provided in subdivision (a) of Section 42023.3, all money received as repayment and interest on loans made pursuant to this section shall be deposited in the subaccount.

(2) The term of any loan made pursuant to this section shall be not more than 10 years when collateralized by assets other than real estate, or not more than 15 years when partially or wholly collateralized by real estate.

(3) The board shall approve only those loan applications that demonstrate the applicant's ability to repay the loan. The highest priority for funding shall be given to projects which demonstrate that the project will increase market demand for recycling the project's type of postconsumer waste material.

(4) The board shall finance not more than three-fourths of the cost of each project, or not more than two million dollars (\$2,000,000) for each project, whichever is less.

(5) The Department of Finance may audit the expenditure of the proceeds of any loan made pursuant to Section 42023.1 and this section.

(b) (1) Except as provided in paragraph (2), this section shall become inoperative on July 1, 2011, and as of January 1, 2012, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

(2) The repeal of this section pursuant to paragraph (1) shall not extinguish any loan obligation or the authority of the state to pursue appropriate actions for the collection of a loan.

SEC. 5. Section 42023.5 of the Public Resources Code is amended to read:



42023.5. (a) The board shall, as part of the annual report to the Legislature, pursuant to Section 40507, include a report on the performance of the Recycling Market Development Revolving Loan Program, including the number and size of loans made, characteristics of loan recipients, projected loan demand, and the cost of administering the program.

(b) This section shall become inoperative on July 1, 2011, and as of January 1, 2012, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 6. Section 42023.6 of the Public Resources Code is amended to read:

42023.6. (a) The board shall encourage applicants to seek participation from private financial institutions or other public agencies. For purposes of enabling the board and local agencies to comply with Sections 40051 and 41780, the board may participate, in an amount not to exceed five hundred thousand dollars (\$500,000), in the Capital Access Loan Program as provided in Article 8 (commencing with Section 44559) of Chapter 1 of Division 27 of the Health and Safety Code.

(b) For purposes of participating in the Capital Access Loan Program, as specified in subdivision (a), or in any program that leverages subaccount funds, the board may operate both inside and outside the recycling market development zones.

(c) (1) Except as provided in paragraph (2), this section shall become inoperative on July 1, 2011, and as of January 1, 2012, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

(2) The repeal of this section pursuant to paragraph (1) shall not extinguish any loan obligation or the authority of the state to pursue appropriate actions for the collection of a loan.

